IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.172 OF 2005
WITH
NOTICE OF MOTION NO.248 OF 2007
WITH
NOTICE OF MOTION NO.388 OF 2007
WITH
CHAMBER SUMMONS NO.367 OF 2007
IN
WRIT PETITION NO.2631 OF 2005

Gazebo Restaurant & Department Stores Pvt. Ltd. & anr. ..Petitioners

V/s.

The Municipal Corporation of Greater Mumbai & ors ..Respondents

Ms.V.B.Thadani, Advocate, for petitioner
Ms.P.A.Purandare, Advocate, for the respondent Nos.1 to 3
Mr.D.A.Nalawade, Government Pleader, for respondent No.4
Ms.Anamika Malhotra, Advocate/Commissioner present
Mr.G.P.Sud, applicant-in-person present

CORAM : J.N.PATEL &
K.U.CHANDIWAL, JJ.

DATE : 16TH JULY, 2008

P.C.

. Heard.

2. The petitioners have approached this Court with a grievance that the respondent particularly

M.C.G.M is bent upon harassing the petitioner-company and that they are initiating action against their establishment without following due process of law.

3. The learned counsel appearing for the Municipal Corporation submits that the petitioners are without following due process of law filing suits after suits and initiating litigations. The petitioners have made specific allegation against a Minister of the State Government that it is at the behest of the Hon'ble Minister that the Municipal Corporation has become so active as the Minister is interested in buying the property owned by the petitioner-company. The Corporation has to hear the petitioner. There are suits pending in the City Civil Court seeking identical reliefs.

4. This Court on earlier occasion had even appointed the Commissioner whose report is placed on record. The Commissioner has submitted her report. The Commissioner has been paid fees. We have gone through the Commissioner's Report.

5. In our view, the petition can be disposed of on the statement made by the learned counsel for respondent No.1 that respondent No.1 would initiate action against the petitioner – company after strictly following due process of law as this is the relief which has been sought for in the petition.

6. Insofar as the harassment and humiliation meted out to the petitioner is concerned, the petitioners have filed Criminal Writ Petition in respect thereof wherein this issue can be dealt with. Therefore, we dispose of the petition accepting the statement made by the learned counsel appearing for respondent No.1 – MCGM that they would initiate action only after following the due process of law, if they found that there is any unauthorized and illegal construction carried out at the site of the establishment. We accept the statement. Nothing survives in this petition. Petition stands disposed of accordingly. It is made clear that the respondent No.1 would initiate

fresh proceedings against the petitioner and notices issued by them which form subject matter of this petition would be withdrawn so as to give fair opportunity to the petitioner in the matter.

7. The learned counsel for the petitioner states that they will withdraw all the Civil suits filed in the City Civil Court which is subject matter of notices challenged in the petition. Notice of Motion and Chamber Summons stands disposed of.

(J.N.PATEL, J.)

(K.U.CHANDIWAL, J.)